

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF NEW YORK

Index No.: 14-cv-3884(JS)(ARL)

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GLYNICE SIMMONS, Individually and as  
Administratrix of the Estate of DAINELL  
ERIK SIMMONS,

Plaintiffs,

-against-

**AFFIRMATION IN  
SUPPORT OF  
RULE (b) MOTION**

THE COUNTY OF SUFFOLK AND SUFFOLK  
COUNTY POLICE DEPARTMENT,  
POLICE OFFICERS "JOHN DOE"  
1-10 individually and officially as members  
of the Suffolk County Police Department,  
MARYHAVEN CENTER OF HOPE FOR  
MENTALLY CHALLENGED INDIVIDUALS,  
and EMPLOYEES "JOHN DOE" 1-10,

Defendants.

-----X  
C O U N S E L O R S :

Anna I. Hock, Esq., an attorney duly licensed to practice law before the United States District Court, Eastern District of New York, and before the courts of the State of New York, hereby affirms under penalty of perjury:

1. I am an associate with the law firm of Bartlett, McDonough & Monaghan, LLP, attorneys for Defendant, MARYHAVEN CENTER OF HOPE, INC. s/h/a *MARYHAVEN CENTER OF HOPE FOR MENTALLY CHALLENGED INDIVIDUALS and EMPLOYEES "JOHN DOE" 1-10* ("MARYHAVEN"), and as such, I am fully familiar with the facts and circumstances of the within action based upon a review of the files maintained by this office.
2. This affirmation is submitted in support of Defendant, MARYHAVEN's Rule 12(b)(6) motion to dismiss as Plaintiffs have failed to state a claim upon which relief can be granted. Moreover, if the state law claims are not dismissed pursuant to Rule 12(b)(6), to

the extent the Court is divested of original federal jurisdiction, then the remaining sixth, seventh and ninth causes of action must be dismissed as the Court cannot exercise supplemental jurisdiction over the remaining state law claims.

3. In support of MARYHAVEN's motion, MARYHAVEN respectfully submits the annexed Memorandum in Support as well as the following exhibit:

a. Exhibit "A" – Second Amended Complaint dated and filed on September 24, 2014.

4. Based on the arguments as set forth in Defendant's Memorandum in Support, it is respectfully submitted that even after accepting the material facts in the complaint as true, Plaintiffs have failed to state a single cause of action upon which relief can be granted. Therefore, MARYHAVEN submits that the Second Amended Complaint must be dismissed, with prejudice, and Plaintiffs demands for compensatory damages and attorney's fees must be denied, in their entirety.

WHEREFORE, Defendant, MARYHAVEN, respectfully submits that Defendant Rule 12(b)(6) and (1) motion must be granted in its entirety, together with such other and further relief as this Court may deem just and proper.

Dated: Mineola, New York  
September 25, 2014

Yours, etc.,  
BARTLETT, McDONOUGH  
& MONAGHAN, LLP

By: \_\_\_\_\_

Anna I. Hock (AIH9249)

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**BM&M File No.: 353-0003**